

CITY OF AUSTIN
Board of Adjustment/Sign Review Board
Decision Sheet

DATE: Monday, November 14, 2011

CASE NUMBER: C15-2011-0104

| | |
|----------------------------|---|
| <input type="checkbox"/> Y | Jeff Jack |
| <input type="checkbox"/> Y | Michael Von Ohlen Motion to Grant lot size variance only |
| <input type="checkbox"/> Y | Nora Salinas |
| <input type="checkbox"/> Y | Bryan King |
| <input type="checkbox"/> Y | Susan Morrison 2nd the Motion |
| <input type="checkbox"/> Y | Melissa Hawthorne |
| <input type="checkbox"/> - | Heidi Goebel |
| <input type="checkbox"/> - | Cathy French (SRB only) |
| <input type="checkbox"/> Y | Will Schnier |

APPLICANT: Ross Allen Frie

OWNER: John Barkley

ADDRESS: 609 OAKLAND AVE

VARIANCE REQUESTED: The applicant has requested a variance to decrease the minimum lot size requirement of Section 25-2-492 (D) from 8,000 square feet to 6,770 square feet in order to maintain a multi-family use (3 units total) in an "MF-4-NP", Multi-Family Residence – Neighborhood Plan zoning district. **Grant**

The applicant has requested a variance to decrease the minimum rear yard setback requirement of Section 25-2-492 (D) from 10 feet to 1.5 feet in order to maintain a detached living unit of a multi-family use (3 units total) in an "MF-4-NP", Multi-Family Residence – Neighborhood Plan zoning district. **Deny**

The applicant has requested a variance to decrease the minimum off-street parking requirement of Section 25-6 Appendix A from three off-street parking spaces to two off-street parking spaces in order to maintain a multi-family use (3 units total) in an "MF-4-NP", Multi-Family Residence – Neighborhood Plan zoning district. **Deny**

BOARD'S DECISION: POSTPONED TO November 14, 2011

November 14, 2011 The public hearing was closed on Board Member Michael Von Ohlen motion to Grant lot size to 6,770 sq feet and Deny rear side setback to 1.5 feet and off-street parking to two off street parking spaces, Board Member Susan Morrison second on a 7-0 vote; **GRANTED LOT SIZE TO 6,770 SQ FEET AND DENIED REAR SIDE SETBACK TO 1.5 FEET AND DENIED OFF-STREET PARKING TO TWO OFF STREET PARKING SPACES.**

FINDINGS:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: minimum lot size, property was platted in 1913, building footprint in existence since 1912

2. (a) The hardship for which the variance is requested is unique to the property in that: property and building existed prior to city of Austin zoning ordinance that created non compliance

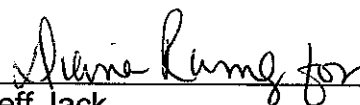
(b) The hardship is not general to the area in which the property is located because: unfortunately, hardship is general to Clarksville area since there are other properties in area non compliant due to city adopted regulations after neighborhood was completed.

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because: property and building already in existence for nearly 100 years and adjacent owners support variances.

PARKING: (Additional criteria for parking variance only)

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation because: current 70' long concrete parking strips are adequate for parking requirement, have been in existence before city parking regulations and variance to reduce parking requirement from 3 to 2 space will not impact
2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because: granting variance will reduce parking on public street since more than 3 cars park on existing parking strips with no street parking
3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objective of this Ordinance because: if variance not granted then 3rd vehicle will be forced to park on public street increasing safety hazard
4. The variance will run with the use or uses to which it pertains and shall not run with the site because: the one parking space reduction will run with current multi-family use.

Susan Walker
Executive Liaison



Jeff Jack
Chairman

C15-2011-0104 – 609 Oakland Avenue

Clarksville Neighborhood Characteristics

Clarksville neighborhood is located in western downtown area and is an eclectic "Austin Unique" community with most housing built in the early 1900's although its central Austin location has created a high demand for affordable houses so many have been renovated over time and some torn down with new houses currently being built throughout neighborhood. The smaller, quaint houses are a mixture of single family and multi-family uses located in neighborhood interior with offices located on edge of neighborhood along W. Sixth Street that have parking behind offices accessed from streets like Oakland Ave., Pressler St and Highland Ave. The neighborhood is a mixture of SF-3, MF-4, LO and GO zoning districts on a lot-by-lot basis zoned according to existing land uses (see attached Neighborhood Zoning Map).

Variance Request History

I, Ross Frie, a former City Planning Director and Building Official, was hired by the Barkley's to assist them in bringing their nearly 100 year old property into compliance with current Austin City Codes. To date, we have received a amnesty permit on the duplex located on front of the property, have completed some remodeling after City inspectors noted issues to address for compliance and have now received a Certificate of Occupancy on the duplex. We attempted to get an amnesty permit for the rear structure located near back of property since it existed long before 1986, but in working with the City, we could find no documentation to substantiate the existence of the structure. Therefore, we were told that we would need the three variances, i.e. minimum lot size, rear setback and stacked parking variances prior to getting a permit for the City to inspect, us to complete any necessary remodeling to bring unit into compliance so we could receive a Certificate of Occupancy for this building also.

We postponed our BOA case C15-2011-0104 on October 10, 2011 because we wanted time to meet with the Clarksville Neighborhood Association to explain our variance requests since there seemed to be a lot of confusion when the City sent the Notice of Public Hearing to all nearby property owners based on initial opposition letters. The 609 Oakland Avenue property owner John Barkley met with the neighborhood association on 10/8 and to allow us time to gather letters of support for our variance requests after the neighborhood association meeting. Following that meeting, we have received a neutral recommendation from the neighborhood association as they presented at the 11/14 BOA meeting by their neighborhood representative and we have received six letters of support from neighbors most directly affected by these variance requests.

At the 11/14 BOA meeting, our minimum lot size variance was approved 7-0. Our rear setback and stacked parking variance was not approved by vote of 5-2. Commissioner Hawthorne requested that I make a trip to the Austin History Center to validate the rear structure existed prior to 1986 and then request reconsideration for the 12/12 BOA meeting.

Rear Setback Variance

The small 400 sf structure near the rear of property was improved from an existing unsafe dilapidated storage building on the original building footprint that has had a 1.5' rear setback ever since property was first built in 1912. The owners improved and renovated the dilapidated structure back in 1982 but never altered the location of original structure (see attached email and photos). Therefore, when the City of Austin adopted their

C15-2011-0104 – 609 Oakland Avenue

subdivision regulations and zoning ordinance with a minimum rear setback of 10', the ordinance created the unreasonable use and hardship and granting this variance does not alter the character of the property or area since property has been located there for nearly 100 years and none of the neighbors have opposed the structure in past. In addition, many lots in the neighborhood have the similar situation with existing buildings within the city's setback requirements (see attached Sanborn Maps). These buildings were in existence prior to the City's adoption of subdivision and zoning ordinances thereby, creating the noncomplying structures. Our visit to the Austin History Center validates the rear structure has been in existence since at least 1935 according to the attached Sanborn Maps.

According to Austin City Code Chapter 25 Land Development, Article 8 Noncomplying Structures Section 25-2-961 Noncomplying Defined states "noncomplying means a building, structure or area, including off-street parking or loading areas, that does not comply with currently applicable site development regulations for the district in which it is located, but did comply with applicable regulations at the time it was constructed." According to the 1935 Sanborn maps, structure was located on the rear property line and meets the definition of noncomplying.

In addition, Section 25-2-962 Structures Complying on March 1, 1984 (A) states "a structure that complied with the site development regulations in effect of March 1, 1984, is a complying structure." (B) states "a structure that complies with the site development regulations does not become a noncomplying structure as the result of a change in the use, zoning or development of property." Therefore, even if the use of structure was changed, it's still a complying structure.

Furthermore, Section 25-2-963 Modification and Maintenance of Noncomplying Structures (F) states "a person may modify a building that is a noncomplying structure based on a yard setback requirement of this title if the modified portion of the building does not extend further into the required yard setback than the existing noncomplying portion of the building." Therefore, the modified dilapidated structure, renovated in 1982, did not extend further into rear yard setback since 1935 Sanborn Maps shows structure on rear property line.

Lastly, we have reviewed all the letters in opposition to the rear setback variance request received prior to Oct 8th and since the neighbors didn't quite understand the variance request they received in mail, we met with neighborhood association on 10/8 to explain the rear setback variance which was not a variance request to build new living unit, which is permitted in MF-4, but the variance is for the existing structure that has been there for decades and has not been opposed by the neighbors since its existence. Following that meeting, we have received a neutral recommendation from the neighborhood association as they presented at the 11/14 BOA meeting by their neighborhood representative and we have received six letters of support from neighbors most directly affected by these variance requests.

Stacked Parking Variance

The property has an existing 70' long concrete parking strips sufficient for compliance with Austin City Code Chapter 25 Land Development Section 25-6 Transportation Appendix A which requires for 1.5 spaces/unit for the 2 one-bedroom multifamily units and 1 space/unit for an efficiency multifamily unit minus urban core reduction of 20% for a total of 3 parking spaces required. According to Table 9-1, required parking spaces are 9' x 17' 6". Therefore, 3 spaces is 9' x 53' and we are in compliance with parking requirements (see attached Neighborhood

C15-2011-0104 – 609 Oakland Avenue

Parking Map). However, the issue is that MF-4 only allows 2 parking space stacking. We completed a parking analysis of neighborhood along Oakland Ave and discovered there is no uniformity in the existing parking in area. The properties range from no off-street parking, caliche and gravel driveways, 3 car stacked driveways or parking strips, 2 car parking strips, 1 car concrete driveway with one car garage, 1 car parking strip with carport, to standard concrete driveways. The majority of these various driveway configurations allow ample parking for the residents. Therefore, since most driveways in neighborhood are noncomplying according to City regulations, we are only requesting a variance to the stacking requirement as ample parking exists on-site to meet City 3 parking spaces requirement (see attached 70' Parking Strip Photos). Granting the variance will not increase traffic volumes, will keep all parking on-site, actually decrease parking on public streets and will not create a safety hazard. It will run with use which is a permitted multi-family use.

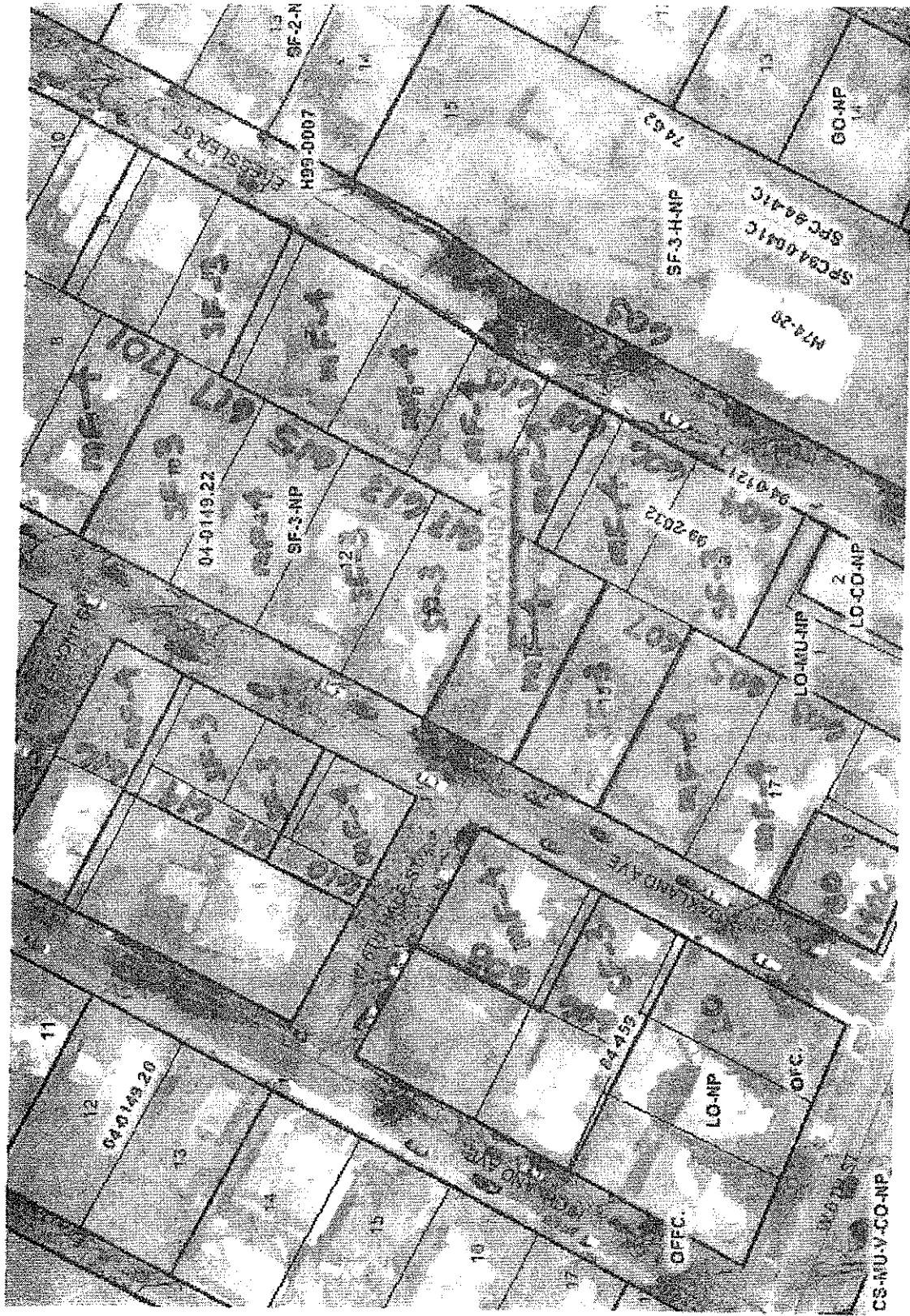
In addition, when the City of Austin adopted their subdivision regulations and zoning ordinance with a maximum 2 parking space stacking requirement, it created the unreasonable use and hardship and granting this variance does not alter the character of the property or area since this 70' concrete parking strips have been located there for decades and none of the neighbors oppose the stacking requirement and many lots in the neighborhood has the similar situation. This driveway has been in existence prior to the City's adoption of subdivision and zoning ordinances thereby, creating the noncomplying parking requirement.

Furthermore, according to Austin City Code Chapter 25 Land Development, Article 8 Noncomplying Structures Section 25-2-961 Noncomplying Defined states "noncomplying means a building, structure or area, **including off-street parking** or loading areas, that does not comply with currently applicable site development regulations for the district in which it is located, but did comply with applicable regulations at the time it was constructed. According to the 1935 Sanborn maps, structure that required third parking space meets the definition of noncomplying which includes off-street parking.

Lastly, we have reviewed all the letters in opposition to the parking variance request received prior to the Oct. 8th and since the neighbors didn't quite understand the variance request they received in mail, we met with neighborhood association on 10/8 to explain the parking variance. They actually opposed more on-street parking which granting this variance to the 3-car stacked driveway actually addresses and satisfies their concern by allowing all 3 cars required to park on site on existing parking strips that has been there for decades. Not approving this variance means one of the three existing cars will be forced to park on the street which is exactly what the neighbors are opposed to. Following that meeting, we have received a neutral recommendation from the neighborhood association as presented at the 11/14 BOA meeting by their neighborhood representative and we have received six letters of support from neighbors most directly affected by these variance requests.

Variance Request Summary

In summary, we are requesting a favorable ruling on the existing 1.5' rear setback and a parking variance that allows use of existing 70' parking strips for 3-car parking requirement to allow what has already existed since at least 1935 to continue while we work with City to bring property into compliance either City of Austin codes and ordinances.





THE EDITOR

OF THE

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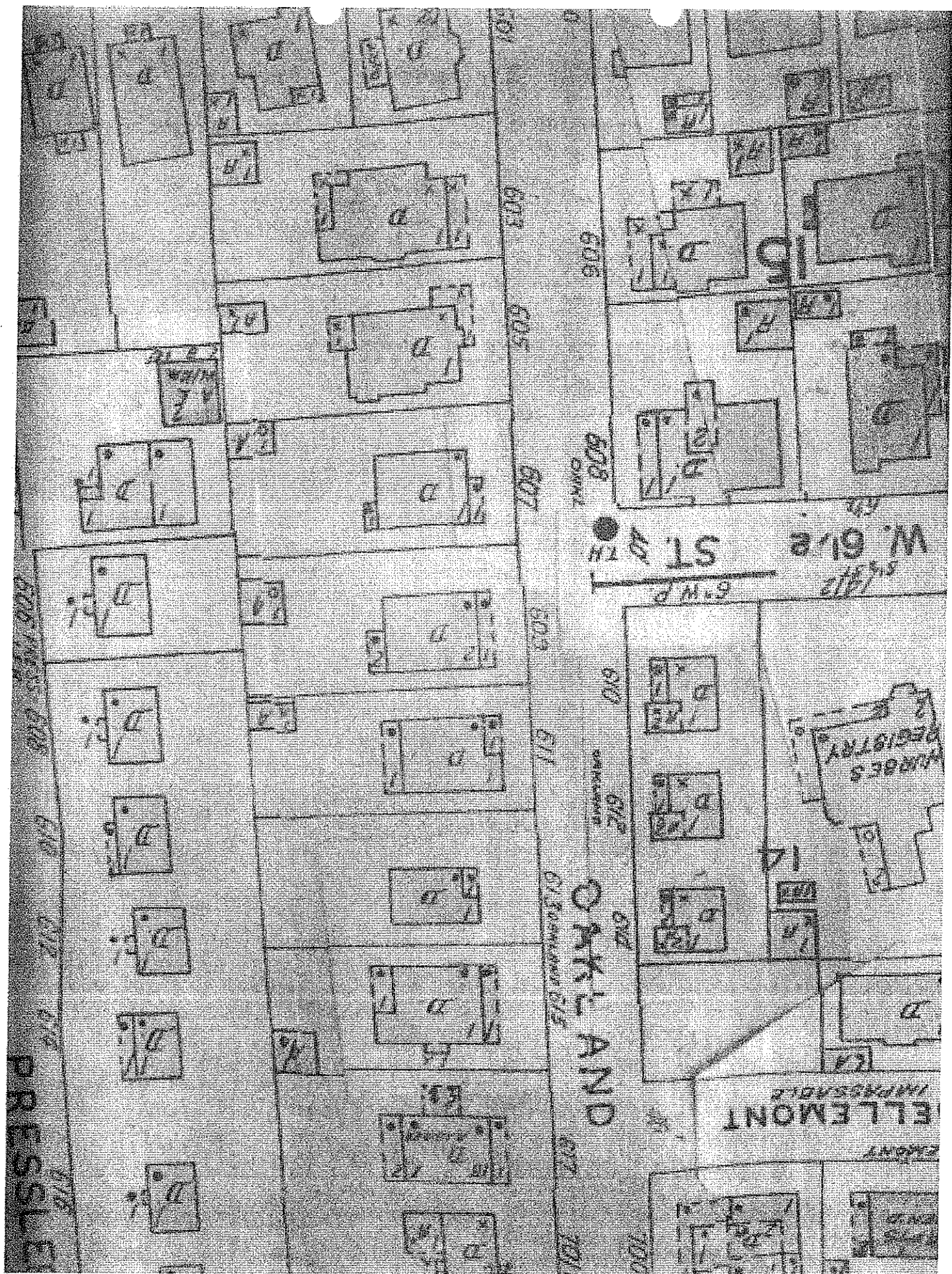
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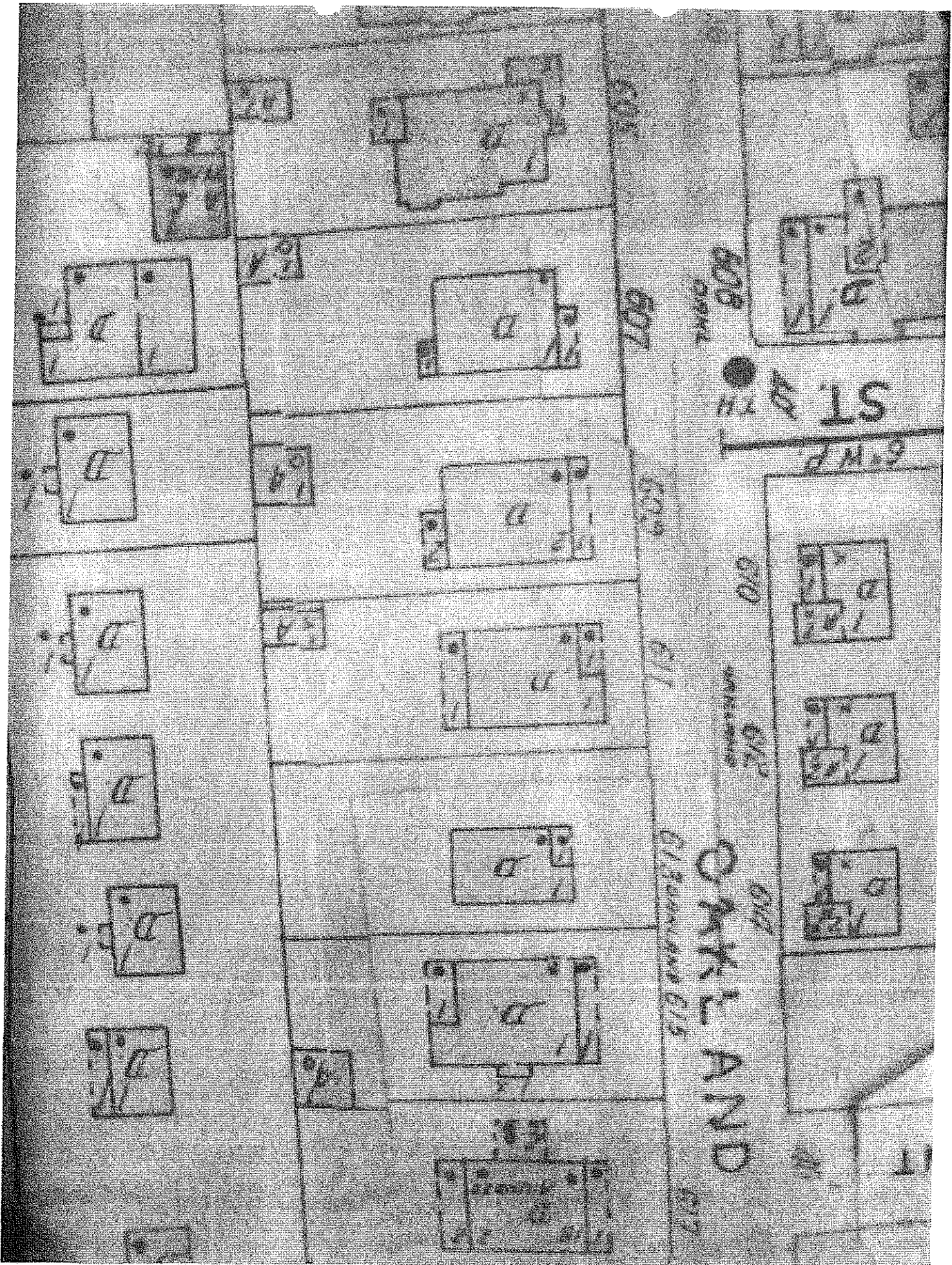
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Ross Frie

From: John Barkley [barkley@barkleyhouses.com]
Sent: Saturday, October 29, 2011 9:10 AM
To: crankin@bigcheckfactory.com
Cc: yvonne@bigcheckfactory.com; 'Ross Frie'
Subject: 609 Oakland FW: Pics for you and John of the studio when it was built

Some additional context, as it were. Jb

From: aimee bobruk [mailto:aimeebobruk@aimeebobruk.com]
Sent: Wednesday, August 17, 2011 10:06 AM
To: Medora Barkley
Subject: Pics for you and John of the studio when it was built

Medora and John:

So it turns out I met Tom Athey--the guy who built the studio in 1982.
I was getting out of my car and he happened to be on his bike.
He sent me these pics.

I've included his e-mail below:

Hi Aimee,

I'm the guy on the bike rambling on about your apartment/my studio (as it will always be in my mind) the other day. I really liked your music and your web site, all very cool. As I mentioned, I'm truly thrilled that creative things continue to happen in that space. I built it to match my own dreams at the time and had several incredible years there painting and making photographs. But I always worried that after I left it would just be somebody's apartment and its studio potential would go to waste. Glad to know that's not so...

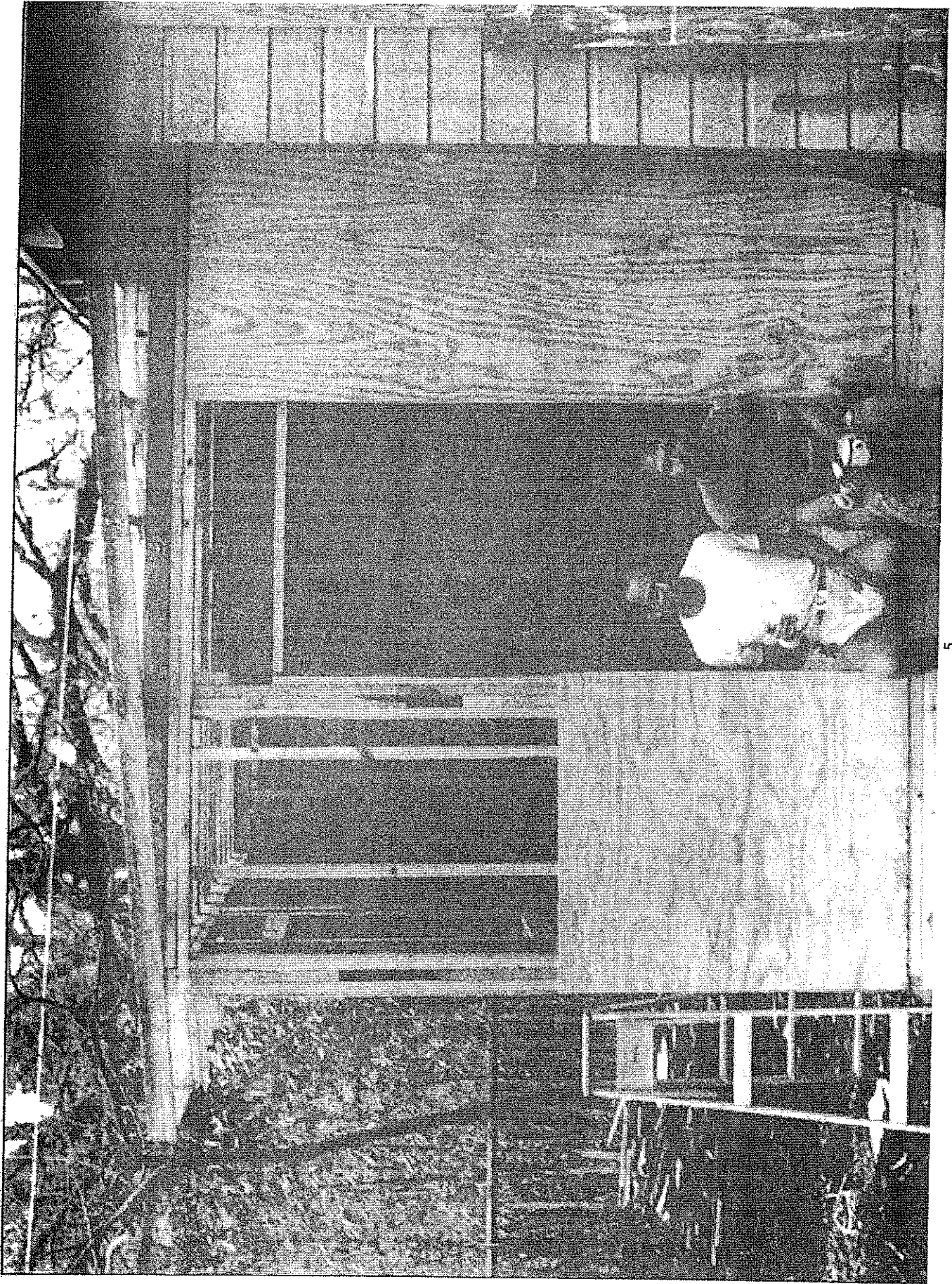
And a PIANO in there! Awesome!

Anyway, I've attached a couple of photos from when it was under construction, circa 1982 or so. That's me with the beard, my friend Jim in the white shirt. I hope you enjoy these.

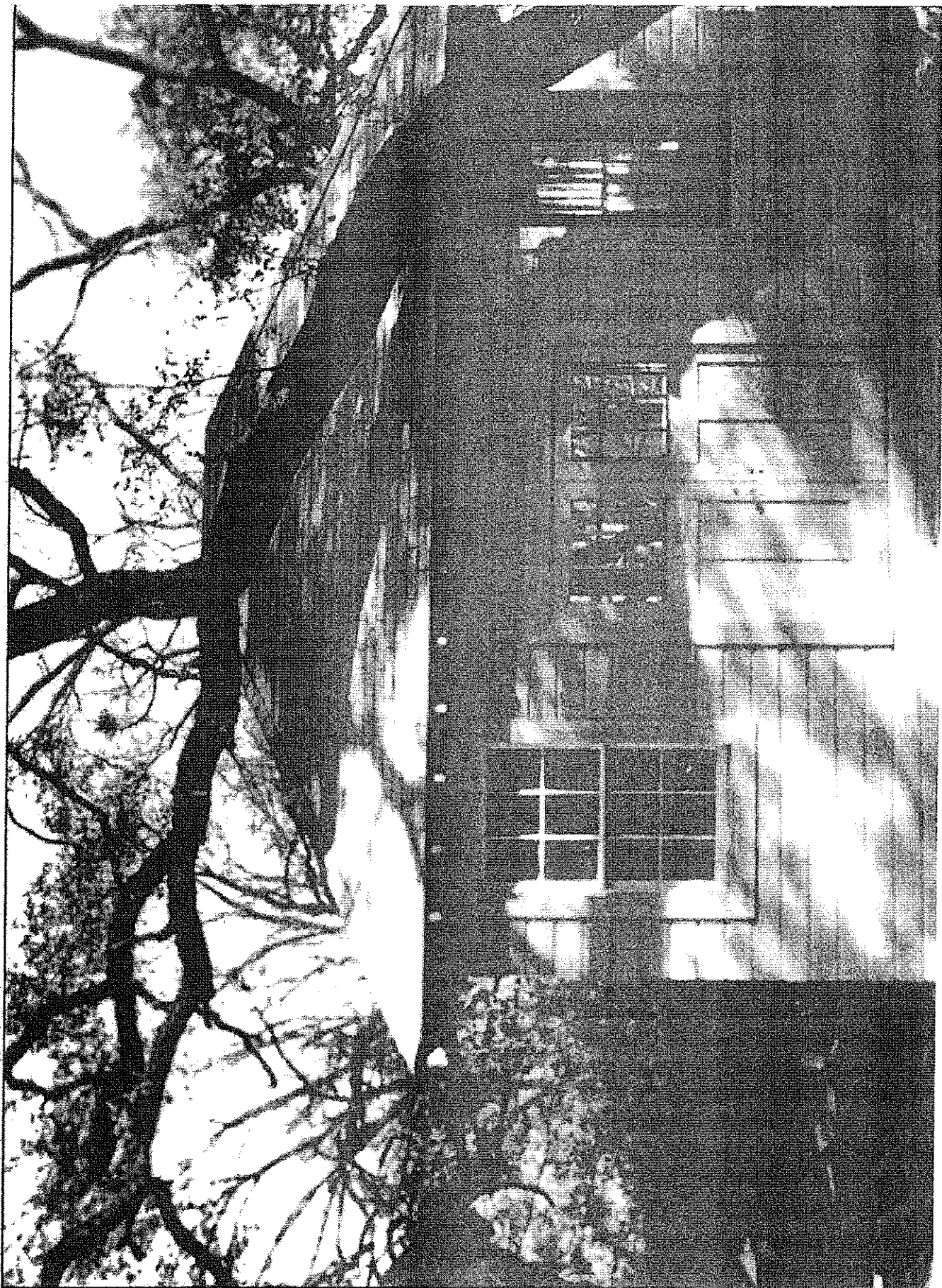
I enjoyed talking with you the other day. Keep up the good works...

Tom Athey
tom@imagesfromhere.com

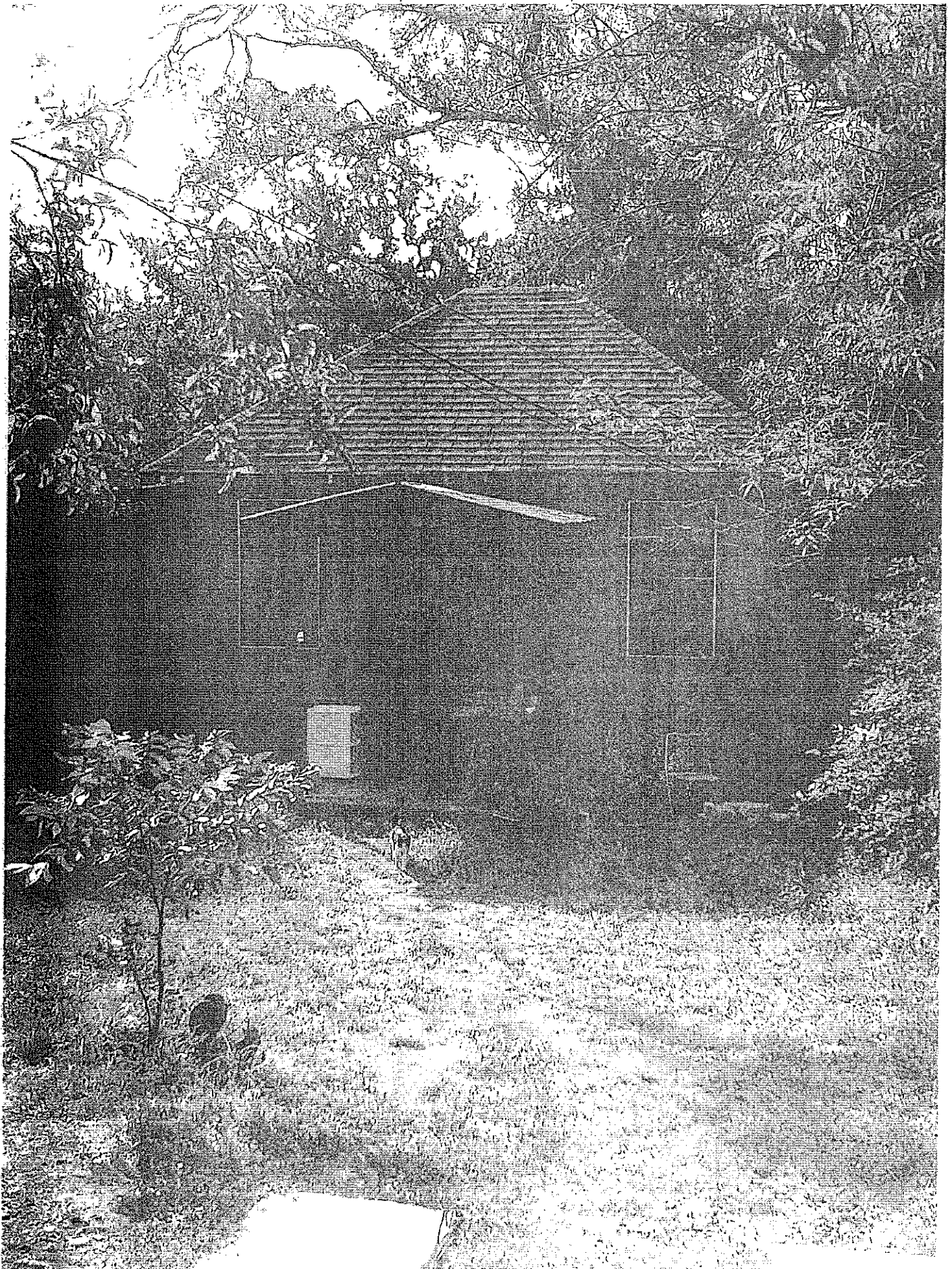
1982 REAR STRUCTURE



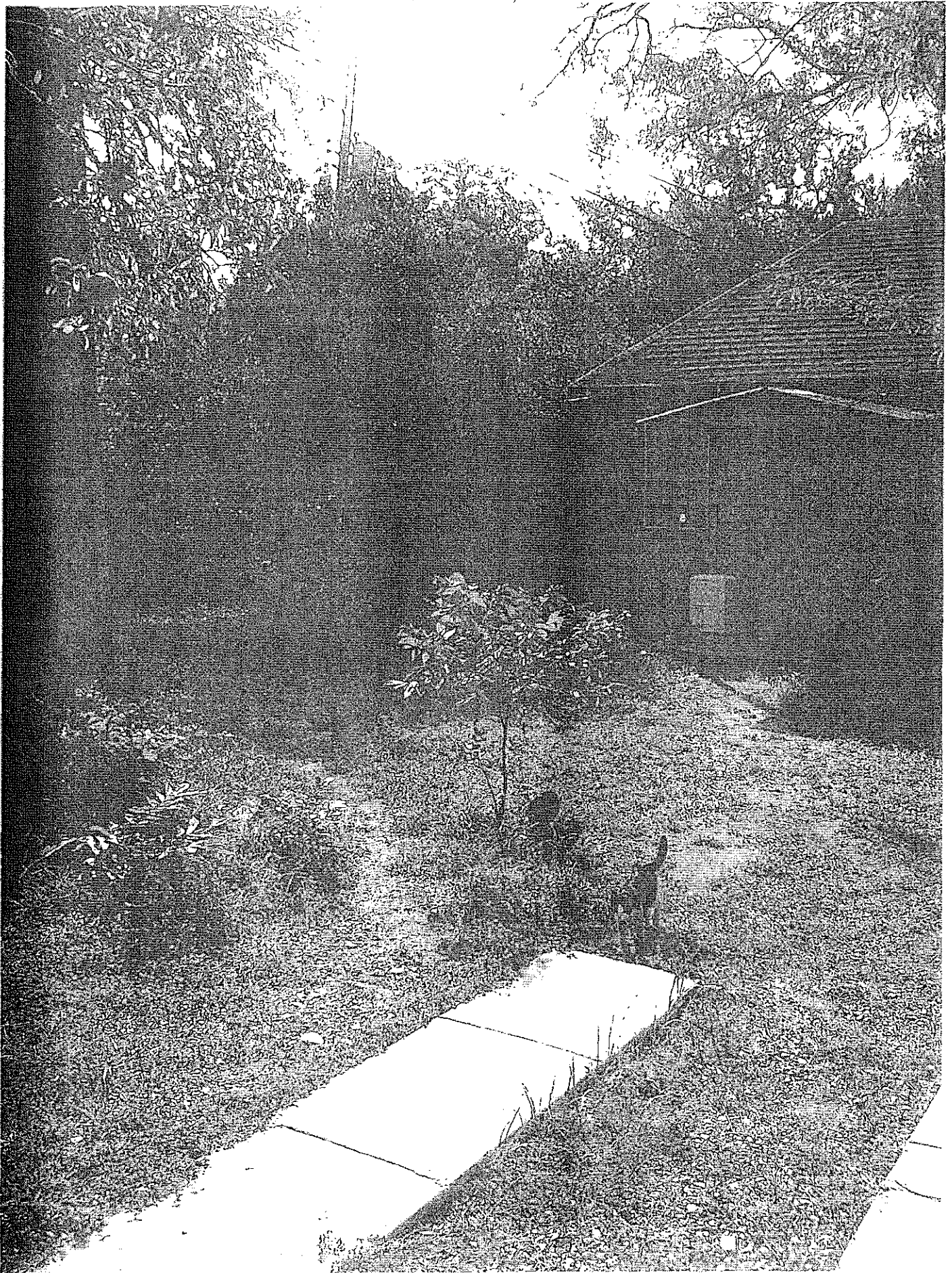
1982 REAR STRUCTURE

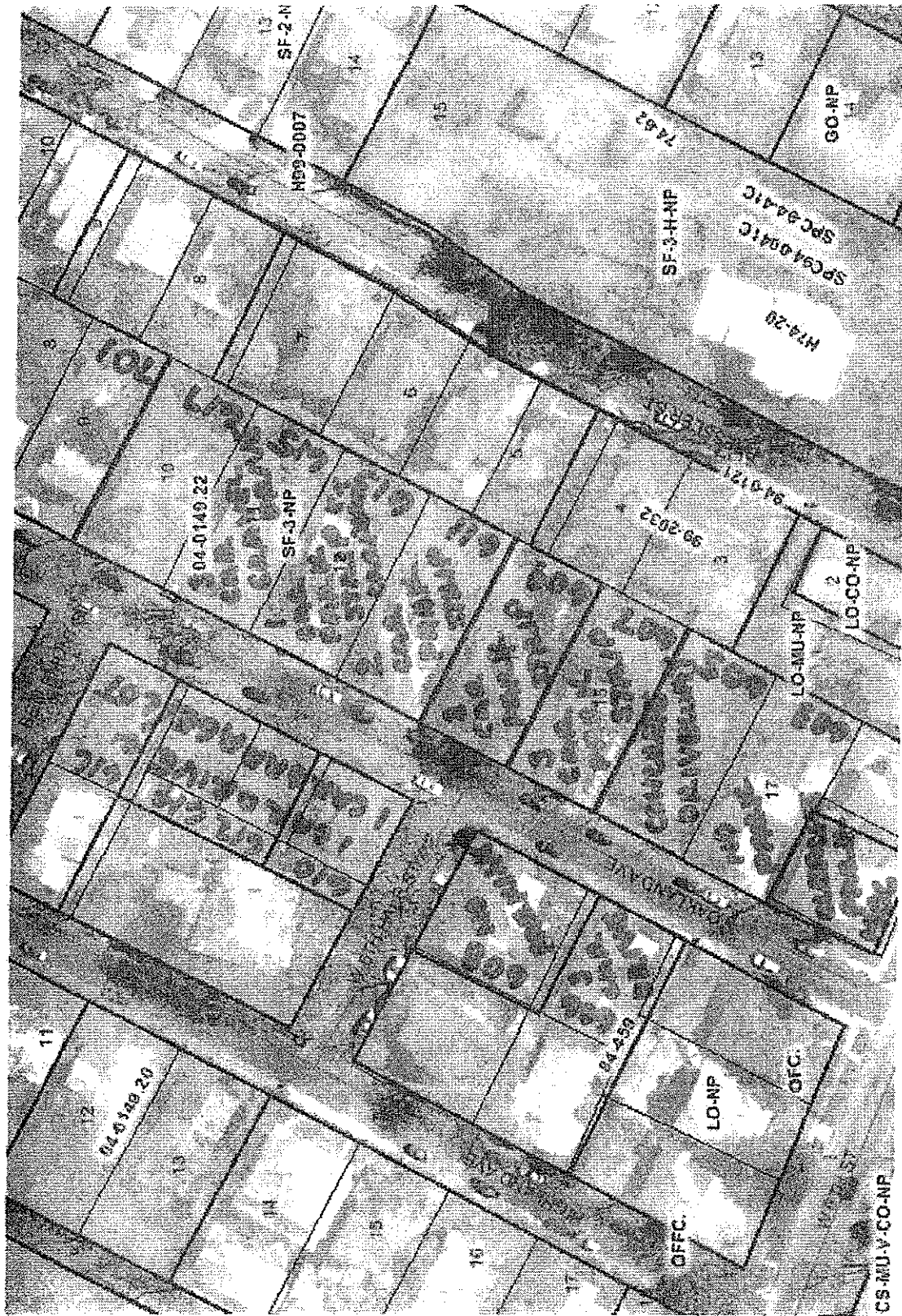


2011 REAR STRUCTURE

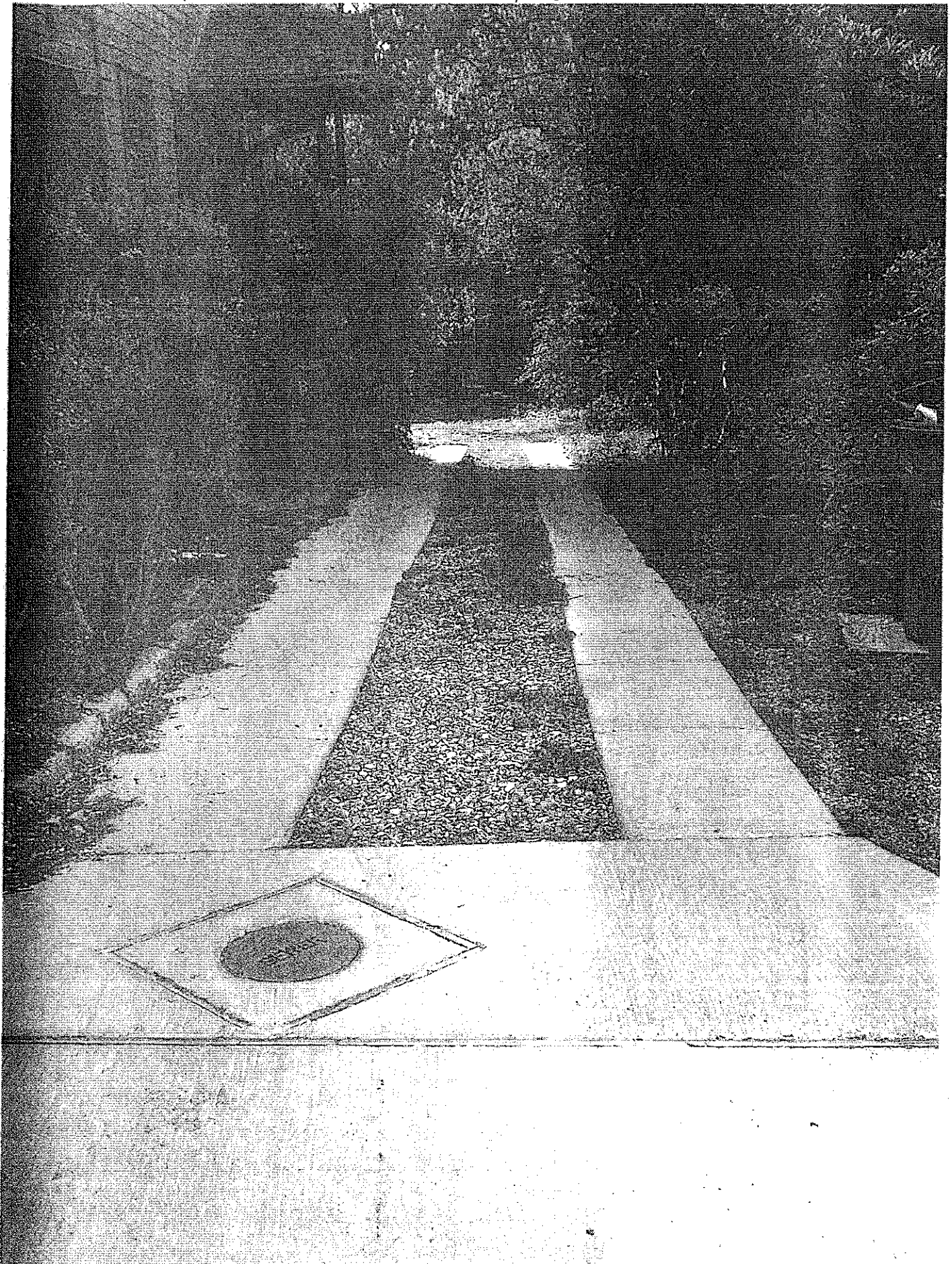


2011 REAR STRUCTURE

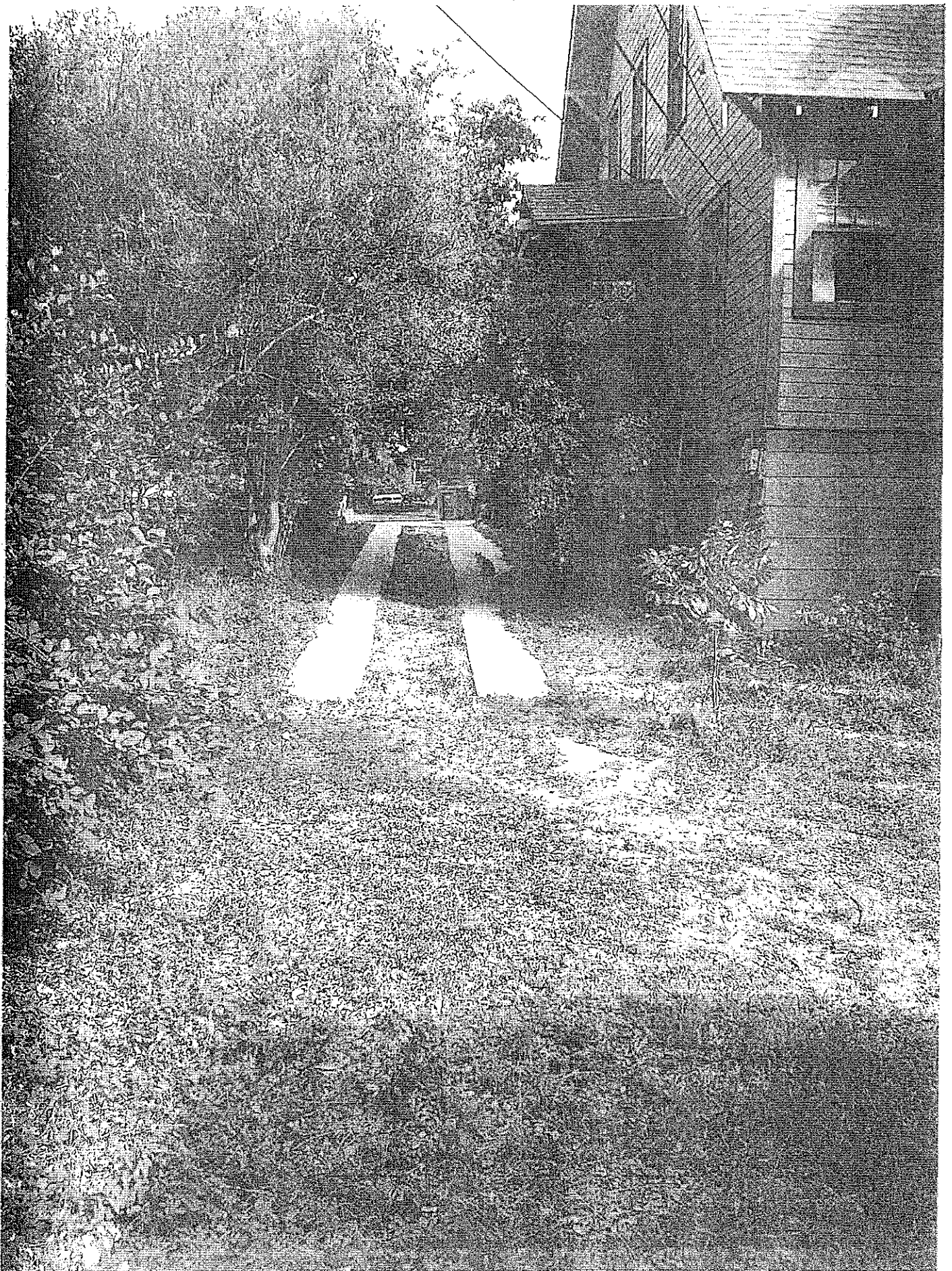




70' PARKING STRIPS



70' PARKING STRIPS



CITY OF AUSTIN
Board of Adjustment/Sign Review Board
Decision Sheet

DATE: Monday, October 10, 2011

CASE NUMBER: C15-2011-0104

Cathy French (SRB only)

Jeff Jack
Michael Von Ohlen
Nora Salinas
Bryan King
Susan Morrison
Melissa Hawthorne
Heidi Goebel

APPLICANT: Ross Allen Frie

OWNER: John Barkley

ADDRESS: 609 OAKLAND AVE

VARIANCE REQUESTED: The applicant has requested a variance to decrease the minimum lot size requirement of Section 25-2-492 (D) from 8,000 square feet to 6,770 square feet in order to maintain a multi-family use (3 units total) in an "MF-4-NP", Multi-Family Residence – Neighborhood Plan zoning district.

The applicant has requested a variance to decrease the minimum rear yard setback requirement of Section 25-2-492 (D) from 10 feet to 1.5 feet in order to maintain a detached living unit of a multi-family use (3 units total) in an "MF-4-NP", Multi-Family Residence – Neighborhood Plan zoning district.

The applicant has requested a variance to decrease the minimum off-street parking requirement of Section 25-6 Appendix A from three off-street parking spaces to two off-street parking spaces in order to maintain a multi-family use (3 units total) in an "MF-4-NP", Multi-Family Residence – Neighborhood Plan zoning district.

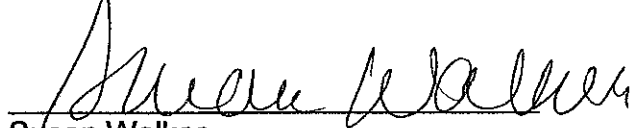
BOARD'S DECISION: POSTPONED TO November 14, 2011

FINDINGS:

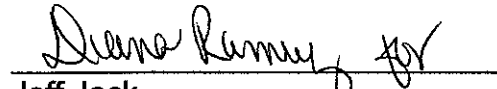
1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:
(b) The hardship is not general to the area in which the property is located because:
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

PARKING: (Additional criteria for parking variance only)

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation because:
2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:
3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objective of this Ordinance because:
4. The variance will run with the use or uses to which it pertains and shall not run with the site because:



Susan Walker
Executive Liaison



Jeff Jack
Chairman

Case Number C15-2011-0104 regarding 609 Oakland Ave BOA hearing November 14, 2011

Amended November 11, 2011:

I would like to amend my vote regarding the rear setback variance. I have spoken to both Mr. and Mrs. Barkley, have been in email correspondence with neighbors behind 609 Oakland as well as read the November 7th, 2011 letter from Mr. Frie. I believe I am a well enough informed neighbor who still objects to at least one variance request... Lot size variance. The added "studio" space should not be used as livable space. It was built in 1982 as an art studio, not an apartment. Even the original builder, Tom Athey, writes, "I always worried that after I left it would just be somebody's apartment and its studio potential would go to waste." Please do not allow the variance to pass which gives permission to covert storage space or studio space into an apartment or livable space.

Our little neighborhood is surrounded by multi-unit apartments and condos. Those who live here and own here (as opposed to those who own and then rent out for income) want family homes with yards and trees. You will see many zoning requests from MF4 to SF3 in just our Oakland block alone. (See Appendix A). I therefore see no hardship for Mr. Barkley regarding a lot size variance. Our homes are just that, homes. Not multi-unit plexes.

As for the other two variances, there shouldn't be a need for a third parking space on the street when the house has a driveway. Therefore, I see no hardship. A 1564 sq ft home doesn't need off street parking for three cars. And the rear setback variance I still give my vote to the owners behind the building, Christopher Rankin. They are the most impacted. When I spoke with Mr. and Mrs. Barkley, they both said that they would build a privacy fence behind the storage/studio space. I think this is very nice of them and considering this, I see no reason to move or knock down this 1982 structure if it is well-built and complies with city building code.

Here is my original vote from October 9th, 2011.

I would like to comment on Case Number C15-2011-0104 regarding 609 Oakland Avenue to be heard by the Board of Adjustments on Monday, October 10th.

First, I appreciate the effort the owners have done painting the home. It is very charming and has excellent street appeal. However, I object to a couple of his variances. His house is a few houses down from mine (705 Oakland). For the most part, many of us have converted our duplexes to single-family homes. My neighbors and our neighborhood association encourage this. But 609 Oakland, on the other hand, is a property with three units: one unit on the first floor, a second unit on the second floor, and a third unit in a separate shed/storage area unattached to the home. This shed/storage is not considered livable space according to Travis CAD, does not have its own water meter (it takes its water

from another unit), and someone is not paying property taxes on this square footage. (Further, he converted attic space into rental income and also does not pay taxes on this square footage either.)

I oppose the request to maintain a third unit on this property, decreasing the minimum lot size to 6,770. It is just too small of a space to have three units. Plus the third unit is a shed and should not be another rental unit.

I do not appose to decreasing the minimum rear yard setback however I give my vote to the family who resides just behind 609 Oakland on Pressler. They are the most impacted.

I object to the request of decreasing the minimum off-street parking from three spaces to two. We already have a problem of street parking on Oakland, especially close to 6th street. The additional car, from this additional unit, is not helping this problem.

Thank you for considering my concerns.

Sincerely,
Kate Ertle

p.s. I will also mail in my objection so you have it on file. Again, I do not oppose the variance to decrease the rear yard setback. I think the owners have a right to a storage unit as many of our homes do not have much storage. But this should not be used as livable space.

Appendix A

707 Oakland November 9, 2004
Case C14-04-0149.24
From MF-4 to SF-3

706 and 708 Highland November 9, 2004
Case C14-04-0149.26
From MF-4 to SF-3

613, 615 and 617 Oakland November 9, 2004
Case C14-04-0149.22
From MF-4 to SF-3

802 Oakland November 9, 2004
Case C14-04-0149.21
From MF-4 to SF-3

704 Oakland November 9, 2004
Case C14-04-0149.23
From MF-4 to SF-3

612 Highland November 9, 2004
Case C14-04-0149.20
From MF-4 to SF-3

11/14/2011

Dear Ms Walker,

Old West Austin Neighborhood Association does not take a position of support or opposition to the three variances requested by the applicant of 609 Oakland Ave, case C15-2011-0104. We recognize this property has existed in the current condition for many years though not in compliance with current codes and ordinances. This property is not unique in this respect as there are numerous examples of properties with site area less than allowed to support building square footages or numbers of dwelling units, deficient on-site parking and encroachment into building setbacks. We recognize this property does not accommodate the required number of parking spaces on site and does contribute to congestion and parking issues on the neighborhood street. At the same time we realize eliminating one car will have negligible impact to the parking problem since it would immediately be filled with another employee or customer from the adjacent commercial business along 6th Street. We do encourage the applicant to look for a solution to park as many vehicles onsite as possible.

Of the three variances requested we believe the rear yard setback has the greatest impact and deserves the most attention of this Board. We support the effected neighbor's desire to minimize the noise and visual problems associated with having a living unit located within 1.5 feet of their property line. This is a very real condition that deserves a solution that offer the effected neighbor to the rear immediate relief from disturbance. We do encourage either; relocation of the unit, discontinued use of the dwelling unit, or the structural modification of the unit that would adequately lessen the sound transmission and visual encroachment of the unit on the adjacent neighbor's property. Although this is an existing condition we do not believe this is a condition that should be allowed to continue unabated.

Thank you,

Larry Halford

Chair – Zoning Committee, OWANA

Walker, Susan

From: Veryan and Greg Thompson [veryanandgreg@gmail.com]
Sent: Thursday, November 10, 2011 9:52 PM
To: Walker, Susan
Subject: re-sent e-mail concerning 609 Oakland Avenue case # C15-2011-0104

Dear Ms. Walker:

I am copying my earlier e-mail to you without the additions that inadvertently got included at the end. Please send this one to the BoA.

Sincerely, Veryan Thompson

Dear Ms. Walker:

Re: C15-2011-0104 - 609 Oakland Avenue, 78703

My husband and I wish to oppose the three variances requested by Mr. Barkley for 609 Oakland Avenue for the following reasons:

1. The historical use of this property was for two living units, and it is only recently that it has come to light that there is a third occupied unit on the back of the property which is at odds with the minimum lot size requirement. We feel that Mr. Barkley should comply with the zoning laws which is why we are against this variance request.
2. The third unit is right on the rear property line so that it overlooks the neighbor behind on Pressler Street which is at a lower level. Any noise, even a phone conversation, can be heard on the adjacent property, and its windows look right into the windows behind. It's original legal use as a storage unit did not impose on any neighbors. We therefore oppose the variance to decrease the minimum rear yard setback.
3. The 600 block of Oakland Avenue is usually crowded as it is used for parking by businesses on 6th Street and their clients as well as residents. Mr. Barkley feels that three cars could be parked one behind the other in the driveway, but it is highly unlikely that would happen because of the inconvenience of needing to move one or two cars to move the innermost one out, so the probable scenario would be another car parking on the street.

I apologize for sending this to you so close to the hearing but our original written comments were not handed in when the case was postponed and we only just heard about the Monday, Nov. 14th hearing today. Unfortunately we will be attending a friend's memorial at the same time as the hearing so will not be able to attend. We would be grateful if you could pass our comments on to the BoA.

Sincerely, Greg and Veryan Thompson

11/14/2011

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak **FOR** or **AGAINST** the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (it may be delivered to the contact person listed on a notice); or
- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.ci.austin.tx.us/development.

I am sending this in case the matter is still open.

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: C15-2011-0104 – 609 Oakland Avenue
Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, October 10th, 2011

Elizabeth Anne Morris
Your Name (please print)

☐ I am in favor
☒ I object

607 Oakland Ave., Austin TX 78703
Your address(es) affected by this application

Anne Morris

10/12/2011
Date

Signature

Daytime Telephone: 284-7936

Comments: The attached "letter" was delivered to my family members who still live at 607 Oakland, next door to 609 Oakland, by someone apparently hired by Barkley to get tenants to agree with the variance. My son delivered it to me. It's dated 10/10, same day as the hearing. Barkley has used the small "Storage space" out back as a rental for many years. Parking on Oakland is difficult enough on week days because of people. If you use this form to comment, it may be returned to:

City of Austin-Planning & Development-Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

US parking there who work nearby on/around W. 6th. and does not deserve special favors from the City. I will be happy to talk to anyone about this, but not with a down Do Not want Barkley to contest us. → 1/11/11

The person who delivered the enclosed "letter," who I presume was Ross Rie, effectively threatened us by implying or saying that if we did not cooperate and support Barkley's application by signing the letter, the City "might come snooping around" our house. Our house at 607 Oakland was built in 1926 and has remained basically unchanged (no remodels or enlargements or any improvements requiring city permits or inspection for which such permit and inspection was not obtained) since I bought it in 1990.

Thank you

Anne Morris

October 10, 2011

To City of Austin,

I own/live at the property at 607 Oakland Ave, which is adjacent to 609 Oakland Avenue, the multi-family property, owned by John Barkley. I have been a neighbor to Mr. Barkley for as long time. I am writing this statement to inform you that I am familiar with the two rental structures on the property. I know that the rear structure serves as an affordable efficiency studio and I appreciate that Austin has affordable housing options for renters wanting to live and work in the downtown areas. In addition, his property is similar to many other properties in our unique character Clarksville neighborhood.

I have no issues with the existing non conforming structures continuing there as they have been for decades, prior to City of Austin ever changing ordinances, and I further offer my support to Mr. Barkley's efforts to request the City of Austin allow him to continue his rental business to offer affordable housing options and /or studio space to citizens of Austin. I also applaud Mr. Barkley's efforts to work with City to bring the multi-family property into near compliance while allowing the rental units to continue. I've been witnessing his renovations and improvements over past few months while working with City Planners and Inspectors to address all their code regulation concerns to improve the living conditions of the front structure.

In summary, I fully support the existing rental units at 609 Oakland Avenue and I am requesting the City of Austin Board of Adjustments grant Mr. Barkley's variances so he may continue to offer affordable housing options so desperately needed in Austin and especially the downtown area.

Sincerely,

Clarksville Resident

607 Oakland Avenue

Austin, Texas 78705

Frie Planning & Development Concepts

and Planning, Engineering and Real Estate Development Services Firm

Ross Frie, AICP

President/CEO

1921 Lohmann Crossing Rd, Suite 100

Austin Texas 78754

Office (512) 276-8895

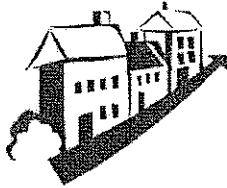
Mobile (512) 925-2562

ross@fripdc.com

www.fripdc.com

C15-2011-0104

Frie Planning & Development



Concepts, LLC

Frie Planning & Development Concepts, LLC

1921 Lohman's Crossing Rd, Suite 100

Austin, Texas 78734

(512) 276-8895 (Office)

(512) 925-2562 (Mobile)

November 7, 2011

Board of Adjustment Members

City of Austin

301 West 2nd Street

Austin, Texas 78701

RE: C15-2011-0104 609 Oakland Avenue Variance Requests

Dear City of Austin BOA Members:

Clarksville Neighborhood Characteristics

Clarksville neighborhood is located in western downtown area and is an eclectic "Austin Unique" community with most housing built in the early 1900's and it's central Austin location has created a high demand for housing so many have been renovated over time, some torn down and replaced with newer homes being built throughout neighborhood. The smaller, quaint houses are a mixture of single family and multi-family uses located in neighborhood interior with offices located on edge of neighborhood along W. Sixth Street that have parking lots behind offices accessed from streets like Oakland Ave., Pressler St and Highland Ave. The neighborhood is a mixture of SF-3, MF-4, LO and GO zoning districts on a lot-by-lot basis zoned according to existing land uses.

Variance Request

I, Ross Frie, a former City Planning Director and Building Official, was hired by the Barkley's to assist them in bringing their nearly 100 year old MF-4 zoned property into compliance with today's Austin City Codes. To date, we have received an amnesty permit on the duplex located on the property, have completed some remodeling after City inspectors noted issues to address for compliance and we have now received a Certificate of Occupancy on the duplex. We attempted to get an amnesty permit for the 3rd efficiency living unit located near rear of property since existed well before 1986, but in working with the City, we could find no documentation to substantiate the existence of living unit. Therefore, we were told that we would need the three variances, i.e. lot size, rear setback and stacked parking variances prior to receiving a permit for the City to inspect, allow us to complete any necessary remodeling to bring 3rd living unit into compliance so we could receive a Certificate of Occupancy for this structure also.

We postponed our BOA case C15-2011-0104 on October 10, 2011 to allow us the opportunity to meet with the Homeowner's Association to explain our variance requests since there seemed to be a lot of confusion after the City sent the Notice of Public Hearing to all nearby property

A Land Planning, Engineering and
Real Estate Development Services Firm

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owners based on the opposition letters submitted to City. The 609 Oakland Avenue property owner John Barkley did meet with the neighborhood association on October 8th and we have received a neutral recommendation from the neighborhood association after presenting our variances. After that meeting, we decided to gather letters of support for our variance requests and, to date, we have received six letters of support from the neighbors most directly affected by these variance requests and will continue those efforts up until the November 14th BOA meeting.

I attended the October 10th BOA meeting to request postponement and to be available to answer any questions that may have arose regarding the case. At that meeting, I heard the presentation for one of the City Attorney's on the upcoming Special Exception Ordinance 20110526-098 which I fully support as a means of allowing property owners to bring their properties into compliance with City ordinances without fear of penalties imposed by City. I haven't seen or read the actual ordinance but from what I heard that evening, this case C15-2011-0104 could qualify under the Special Exemption Ordinance. The entire reason we are requesting approval for the three variances is to bring a long time existing land use into compliance with today's codes and ordinances.

Lot Size Variance

The neighborhood was platted in 1913 and this lot is legally described as Lot 14 Blk A Olt 3 Div Z Terrace Park so the current 6,877 sf lot (.158 acre) has been in that configuration since 1913 and never been replatted. Therefore, when the City of Austin adopted their subdivision regulations and zoning ordinance with a minimum lot size of 8,000 sf, it created the unreasonable use and hardship so granting this variance does not alter the character of the area since the majority of MF-4 lots in the neighborhood are of similar legally non-complying size. In addition, the structures and parking on this lot are only 37% impervious cover, whereas, the MF-4 maximum allowable building coverage is 60% and maximum impervious cover is 70%.

We have reviewed all the letters in opposition to the lot size variance request and believed the neighbors didn't quite understand the variance request they received in mail so we met with the neighborhood association on Oct 8th to explain the lot size variance. Our request was not to replat and reduce the lot size but the variance is for the existing lot size that has been there for nearly 100 years and the majority of lots throughout community are similar in size.

Rear Setback Variance

The small 400 sf efficiency living unit near the rear of property was converted from an existing storage building on the original building footprint that has had a 1.5' rear setback ever since property was first built in 1912. The previous owners converted and renovated the structure back in the early 1980's but never altered the location of original structure. Therefore, when the City of Austin adopted their subdivision regulations and zoning ordinance with a minimum rear setback of 10', the ordinance created the unreasonable use and hardship so granting this variance does not alter the character of the property or area since property has been located there for nearly 100 years and none of the neighbors have opposed the structure in past. In addition, many lots in the neighborhood have the similar situation with existing buildings within the city's

